

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CHASE BANK USA, N.A.,

Plaintiff,

v.

EVELYN L. HILLIS,

Defendant.

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Civil Action No.

**COMPLAINT/MOTION OF PLAINTIFF CHASE BANK USA, N.A.,
FOR CONFIRMATION OF ARBITRATION AWARD**

Pursuant to Rules 54 and 58 of the Federal Rules of Civil Procedure and of the Federal Arbitration Act (“FAA”), 9 U.S.C. §§ 9 and 13, plaintiff Chase Bank USA, N.A. (“Chase”), moves the Court to enter a final judgment by confirming an arbitration award. The award was entered pursuant to the rules of the American Arbitration Association (“AAA”).

As grounds for its motion, Chase states as follows:

1. In or about August 2003, Evelyn Hillis (“Hillis”) opened a credit card account with Chase (the “Account”). The Account was governed at all times by a cardmember agreement (“CMA”), a facsimile copy of which is attached hereto as Exhibit A.

2. Pursuant to the CMA, disputes between Chase and Hillis are to be resolved through binding arbitration. On or about March 12, 2006, Hillis filed an Arbitration Claim with the AAA.

3. Hillis' Demand for Arbitration alleged violations of the Fair Credit Billing Act ("FCBA"), 15 U.S.C. §§ 1666-1666j, and the Truth in Lending Act ("TILA"), 15 U.S.C. §§ 1601-1667f.

4. Hillis' claims are based on a series of form letters sent to Chase beginning in July 2005. Hillis' form letters were identical in all material respects, differing only in dates and numerical amounts. These letters alleged that Chase had committed numerous violations of the FCBA. The form letters stated in pertinent part:

My belief that the statements contain billing errors under 15 U.S.C. 1666(b)(1), (2) and (5) is based upon my belief that you failed to give all the proper disclosures required by law to me prior to opening this account, and additional disclosures since then. Because you failed to provide these disclosures, the account could not legally be opened and I should not be responsible for the payment of interest, fees or other finance charges. While I understand I will likely still be responsible for the repayment of purchases and cash advances, I do not believe I should be responsible for interest, finance charges and other fees

(A true and correct copy of Hillis' July 25, 2005 letter to Chase is attached hereto as Exhibit B.)

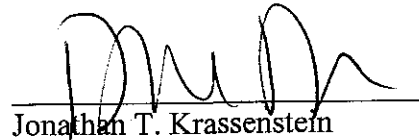
5. On February 13, 2007, Arbitrator David J. Armstrong issued an Award that dismissed, with prejudice, all of Hillis' claims asserted in her Arbitration Claim. (A true and correct copy of the Award is attached hereto as Exhibit C.)

6. Pursuant to §§ 9 and 13 of the FAA, Chase requests that the Court adopt and confirm the Award attached hereto and enter final judgment in accordance with said Stipulated Award.

Respectfully Submitted,

Date: 2-26-07

By:



Jonathan T. Krassenstein

Pa. ID #52095

Toni L. DiGiacobbe

Pa. ID #56686

Krassenstein & Associates

Professional Corporation

7500 Brooktree Drive

Wexford, PA 15090

(724) 935-6227

Attorney for Chase Bank USA, N.A.

Cardmember Agreement

[illegible][illegible]

The disclosure of any other critical agreement or disclosure you may have with us or any of our related parties.

[illegible][illegible][illegible][illegible][illegible][illegible][illegible][illegible]

Card Information: You agree that we may upload **Personal Card** details from one or more credit cards you agree to a connection with your application and the administration of your Account. This also authorizes us to evaluate credit information concerning you or the administration of your Account and to process financial information that is otherwise, either directly or indirectly, your property or assets. We may share information from our credit card database with our affiliated companies.

Please clarify: Is the explicit clause of our contract, may we receive a directed phone communication made or recorded by our employees? For airtel, that we can have back right with respect to all phone communications between you and our employees, whereby initiated by you or any of our employees. Allowed? Thank You! We are not interested to discuss a broad issue. Kind and constructive clarity and, if necessary, is otherwise required by applicable law, our employee, you and not the employees for misdeeds or immoral practices or harmful therapy use of your Account.

[illegible]

YOUR BILLING RIGHTS

Keep Them Covered for Future Use
This piece contains important information about your rights and our weapons that we don't want to lose under the First Amendment.

Watch Out for Cases of Errors or Omissions About Your Bill
If you think you're not being treated right, or if you find more information about a violation on any law enforcement's or a supplier's site in *Defendants' Stories*, DO, Box 1176, Washington, DC 20003-1176, Write to: DO-Box1176@doj.gov. When it is as good as possible, we must have your letter within 10 days after we send you the FBI form so we might be able to correct the error or problem posted. You can telephone us, but we're not able to answer your questions.

- In your lab, print out the following information:
 - Your name and account number;
 - The total amount of the impacted error;
 - The date, my name and region; I know that why you believe there is an error;
 - If you used your information, describe the item you are sure about;
 - Your Signin and our Response/Action After We Receive Your Message
- We must acknowledge your letter within 30 days, unless we have corrected the error by then.
- If we do not, we must either correct the error or explain why we believe the bill was correct.

It was then we made a mistake on your end, we notified you to pay any future charges without any further question. We also didn't make a mistake, you now have to pay future charges, and you have to make up any missed payments on the consolidated amount. In either case, we will not pay a statement of the amount you owe after the third bill is due.

Questioned amount: While we are investigating, has your bill changed to pay the part of your bill that was in dispute.

[illegible]

Now, if you were asked a question to connect the problem with the merchant, you may have the right one. It says the "proportion amount due on the property of Africa." Note the two implications on this right:

- a) You must have made the purchase in your home state or, if not within your home state, within 150 miles of your current mailing address; and
- b) The purchase price must have been more than \$50.

Thus, although it did not say "the cost of services the merchant or it will market you," the advertisement is by the property of America.

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BIT A

EXHIBIT

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For Duty Personnel: Rate will vary to determine your **Periodic FINANCE CHARGE** for purchase balances on the last 5 billing cycles following the closing of your account. (The "Monthly Period") is a three (3) rate of 10%, corresponding to an **ANNUAL PERCENTAGE RATE** of 10%.

[illegible]

FOR ADDITIONAL MATTER FOR LATE PAYMENT, SEE FINANCIAL STATEMENTS FOR LATE PAYMENT	
Cash Advance Financial Charge	
ATM Cash Advance	1% of Cash Advance (max. advance of \$1,000)
ATM Daily Cash Advances	1% of Cash Advance (max. advance of \$1,000)
Transaction Financial Charge	3% of Transaction Amount Not to exceed \$1,000
Banked Transfer Financial Charge	3% of Transfer Amount Not to exceed \$1,000
Minimum Finance Charge	at least a minimum of \$5.00
If you finance Direct is subject to a monthly delinquency	
Amount by month of late fee	None
Over Payment Charge	
Late Fee	\$12.50
After Payment to the	\$12.50
Account, Payment Charge Fee	\$12.50
Default Fee	\$12.50
Administrative Fee	
Default or Non-payment	\$5.00
Default Charge for Billing Statement	\$5.00

First Charge **Against the Payment**. If the non-payment is not a result of the Member's Bankruptcy, Payment by the Payment Debtor after one day past the due date of the payment is considered a First Charge **Against the Payment**. Debtors who are not in bankruptcy are not subject to the rules of the Chapter 12 Bankruptcy Code and the rules of the Federal Bankruptcy Courts. Chapter 12 Bankruptcy is a special type of bankruptcy for family farmers and fishermen. It is a part of the Federal Bankruptcy Code, but it is not a part of the Federal Bankruptcy Courts. The rules of the Chapter 12 Bankruptcy Code are different from the rules of the Federal Bankruptcy Courts. The rules of the Chapter 12 Bankruptcy Code are designed to help family farmers and fishermen who are in financial trouble. The rules of the Chapter 12 Bankruptcy Code are designed to help family farmers and fishermen who are in financial trouble. The rules of the Chapter 12 Bankruptcy Code are designed to help family farmers and fishermen who are in financial trouble.

Additional Money Payment: If the New Business owner or owner's spouse (or owner's child, if the owner is a minor) is a U.S. citizen or resident alien, the owner must file a return for the year in which the owner receives the additional money payment. The owner must include the additional money payment as income for the year in which the owner receives it. If the owner is a U.S. citizen or resident alien, the owner must also include the additional money payment as income for the year in which the owner receives it. If the owner is a non-U.S. citizen or resident alien, the owner must include the additional money payment as income for the year in which the owner receives it. If the owner is a U.S. citizen or resident alien, the owner must also include the additional money payment as income for the year in which the owner receives it. If the owner is a non-U.S. citizen or resident alien, the owner must include the additional money payment as income for the year in which the owner receives it.

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to obtain the financial information in a single step, we use the daily financial statements for all months. For each month, we first identify the stock price for the specific date. We then calculate the daily return for each stock by dividing the stock price for the specific date by the stock price for the day in the immediately preceding month, and the resulting return for the day is equal to the financial statement changes for the day, or the change in the stock price. Finally, we calculate the average daily return, or the average daily stock return, and use it to calculate the average daily stock return for the specific trading period.

Next, we calculate the average daily stock return for each stock by dividing the average daily stock return for the specific trading period by the number of trading days in the trading period. We then calculate the average daily stock return for each stock by dividing the average daily stock return for the specific trading period by the number of trading days in the trading period. Finally, we calculate the average daily stock return for each stock by dividing the average daily stock return for the specific trading period by the number of trading days in the trading period.

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changes in Corporate America from the day they came to market as a private company. The company's first public offering was in 1995, and it was then that it added what they saw as missing critical link in the theory, the 50 Company Finance Initiative. The 50 Company Finance Initiative was a program that required all 50 companies to have a finance committee and a finance officer. The 50 Company Finance Initiative was a program that required all 50 companies to have a finance committee and a finance officer. The 50 Company Finance Initiative was a program that required all 50 companies to have a finance committee and a finance officer.

The first Finance Charge on your Account for a month is being zero and for this sum is the Profitable CHARGE. FINANCIALS plus any other Finance Charge and any Transaction FINANCIAL.

This Agreement provides for daily compounding of Finance Charges (interest). The periodic FINANCIAL CHARGES are subject to change as described in the

Other Interest Charges: In addition to the Finance Charges discussed above, the following interest charges will be applicable to your account:

Annual Membership Fee—You agree to pay us when billed each year [subject to applicable federal law] a non-refundable annual membership fee in the amount stated in the Table of Expected Charges for the privileges you have under this Agreement, whether or not you actually use those privileges. Your payment of this fee will not affect any of our rights under this Agreement, including our right to terminate your Account.

(a) **late fee** - we do not receive a payment from you at all, the amount of your Minimum Monthly Payment for the Payment Due Date shown on your monthly statement, we may charge you a late fee. You will only be charged one late payment fee for any Maximum Monthly Payment which is not paid by the Payment Due Date.

Return Payments: If your firm does not prefer the check or credit card you intended to use to pay amounts you owe under this Agreement, or we must return a check because it is no longer valid, we will, at our option, either (a) reissue the check or (b) make a cash payment to you by the date of the next scheduled payment. If you do not wish to receive a check or cash payment, please advise us in writing by the date of the next scheduled payment. If you do not advise us, we may charge you a return payment fee in the amount stated in the Table of Material Changes.

the time it is processed, your Account is closed or otherwise does not have enough privileges to open Accounts in this way. We may change our rules. Consult the Chapter in the appendix titled "Account Changes."

Admission is free—If you return photocopies of sales slips or duplicate copies of monthly statements or if you request any special services such as shipping Card, on a regular basis you agree to allow reasonable charges for such services, as from time to time in effect.

The present charges for such services are specified in the Table of Interest Charges. However, we may require such a late stop or duplicate statements in connection with any dispute concerning a charge made (see "Your Billing Rights"). We will not impose a late or a billing error if the error was otherwise corrected between us, and any late, minus charges, overpayment or refund credits will be added to your account and treated as a prepayment.

Foreign Currency Transactions. We and Hainfeldt or Visa for that affiliate will convert contributions in foreign currencies into U.S. Dollars. Hainfeldt or Visa will use their then-current currency conversion procedures. Currently, they use either a wholesale market rate or government-settled rate in effect under most procedures and a conversion charge determined by them. We add an additional two cents to the amount provided to us by Hainfeldt or Visa.

as fees. The company's compensation also may differ from the rate in effect on the date you filed your Credit or Account.

Limiting or Unavailable Use of Your Account. If your Credit or Convenience Checks are lost or stolen or if you are still a minor, you may use your Account without your permission. You must notify us at once. You may be liable for the unauthorized use of your Account. You will not be liable for use of your Account.

Credit or Convenience Checks are the checks issued by your credit card company. The amount of the check is \$50.00. We may terminate or close access to your account if you have multiple unreturnable checks. Credit or Convenience Checks may have been lost or stolen, or we have determined that your Credit or Convenience Checks are being used fraudulently.

Inquiries or questions you may address are confidential which you have about your article will be forwarded directly to your editor.

If you're having trouble getting access to your article, contact the Copyright Clearance Center at 978-750-8400, ext. 637-101. If you telephone us instead of writing, you may lose certain rights that we gave you to dispute billing errors like "your Billing Rights".

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IMPORTANT ACCOUNT INFORMATION ENCLOSED

BANK ONE

IMPORTANT NOTICE FOR BANK ONE CREDIT CARD CUSTOMERS ABOUT CHANGES TO YOUR BANK ONE CARDMEMBER AGREEMENT - PLEASE READ AND RETAIN FOR YOUR RECORDS

Bank One is pleased to announce that we have updated our Bank One Cardmember Agreement to reflect changes to our credit card programs. These changes are designed to provide you with the most competitive and valuable benefits and services available. We encourage you to read the updated agreement carefully to understand the new terms and conditions that will apply to your credit card account starting on 01/01/2017. The updated agreement is available at www.bankone.com. Please retain this document for your records.

Key Changes to the Agreement:

- Annual Fee:** The annual fee for the Bank One Visa Signature Card has been increased from \$100 to \$120.
- Interest Rate:** The interest rate for the Bank One Visa Signature Card has been increased from 15.99% to 16.99%.
- Grace Period:** The grace period for the Bank One Visa Signature Card has been extended from 25 to 28 days.
- Travel Insurance:** The travel insurance benefit for the Bank One Visa Signature Card has been enhanced to include coverage for rental car damage.
- Global Entry:** The Global Entry benefit for the Bank One Visa Signature Card has been extended to include coverage for the cardholder's spouse.

Effective Date: 01/01/2017

Cardholder Information	
Cardholder Name	John Doe
Cardholder Address	123 Main St, Anytown, IL 60000
Cardholder Phone	555-123-4567
Cardholder Email	john.doe@bankone.com
Card Information	
Card Type	Bank One Visa Signature Card
Card Number	1234 5678 9010 1111
Cardholder Signature	[Signature]
Cardholder Agreement	
Cardholder Acknowledges	I have read and understand the terms and conditions of the Bank One Cardmember Agreement, and I agree to be bound by the terms and conditions of the agreement.
Cardholder Signature	[Signature]
Cardholder Date	01/01/2017

Cardholder Information	
Cardholder Name	John Doe
Cardholder Address	123 Main St, Anytown, IL 60000
Cardholder Phone	555-123-4567
Cardholder Email	john.doe@bankone.com
Card Information	
Card Type	Bank One Visa Signature Card
Card Number	1234 5678 9010 1111
Cardholder Signature	[Signature]
Cardholder Agreement	
Cardholder Acknowledges	I have read and understand the terms and conditions of the Bank One Cardmember Agreement, and I agree to be bound by the terms and conditions of the agreement.
Cardholder Signature	[Signature]
Cardholder Date	01/01/2017

DISCLAIMER: The information provided in this document is for informational purposes only and does not constitute an offer or recommendation. The information is subject to change without notice. Please consult your financial advisor for more information.

IMPORTANT NOTICE: The information provided in this document is for informational purposes only and does not constitute an offer or recommendation. The information is subject to change without notice. Please consult your financial advisor for more information.

the 1970s, the 1980s, and the 1990s. The 1970s were a time of great change for the industry, with the introduction of the first commercial television stations in the United States. The 1980s saw the rise of cable television, and the 1990s saw the emergence of the Internet as a major source of information. The industry has continued to evolve, with the introduction of digital television and the rise of streaming services. The future of the industry is bright, with many new opportunities for growth and innovation.

[illegible]

1. PLANNING/IMPLEMENTATION For the design engineer, the planning and implementation phases are the most critical. The design engineer must first determine the requirements for the system, then develop a plan to meet those requirements. This plan should include a detailed description of the system, a list of the components to be used, and a schedule for the project. Once the plan is developed, the design engineer must then implement the system. This involves the selection of components, the design of the circuitry, and the construction of the system. The design engineer must also ensure that the system is tested and verified to meet the requirements.

The first paper by John S. Kistner, "The Second Internationalism: The American Labor Movement and the Problem of the Color Line," traces the development of the American labor movement's attitude toward race from the 1880s to the 1920s. Kistner argues that the American labor movement's attitude toward race was shaped by a number of factors, including the influence of the British labor movement, the rise of the Industrial Union of Marine and Shipbuilding Workers of America (IUMSWA), and the rise of the American Federation of Labor (AFL). Kistner concludes that the American labor movement's attitude toward race was shaped by a number of factors, including the influence of the British labor movement, the rise of the Industrial Union of Marine and Shipbuilding Workers of America (IUMSWA), and the rise of the American Federation of Labor (AFL).

[illegible][illegible]

BANK ONE

Dispute or Legal Department

Chase Manhattan Bank, NA
PO Box 15299
Wilmington, DE 19850-5299

Re: Account 4417124191217329

July 25, 2005

Certified Mail Number: 03041070000173924560

Dear Chase Manhattan Bank, NA Dispute Department:

FIRST NOTICE OF BILLING ERRORS

Pursuant to 15 U.S.C. 1666, I am writing you at the address on my billing statements to be used for billing inquiries within sixty days of receiving a statement of my account dated July 8, 2005 in connection with extensions of consumer credit. I hereby provide you notice that I believe said statement contains errors in the total amount you allege to be due, and other more specific items, as laid out more completely below. My belief that the statement contains billing errors under 15 U.S.C. 1666(b)(1), (2) and (5) is based upon my belief that you failed to give all the proper disclosures required by law to me prior to opening this account, and additional disclosures since then. Because you failed to provide these disclosures, the account could not legally be opened and I should not be responsible for the payment of interest, fees or other finance charges. While I understand I will likely still be responsible for the repayment of purchases and cash advances, I do not believe I should be responsible for interest, finance charges and other fees. As I have made payments on this account that have been applied to these improper charges the items I claim are billing errors are improperly reflected on the statements in the incorrect amount and/or inaccurate due to a computational or accounting error.

DISPUTE OF OBLIGATION AND BILLING ERROR PURSUANT TO 15 U.S.C. 1666(b)(1) and (5)

Because I believe I should not have been charged finance charges or fees for the history of this account, I dispute the accuracy of the following items on my statements which have been calculated based on the inclusion of those charges: the current balance, the amounts and payments due and all finance charges and other fees charged since this account was opened. The exact amount of all such previous finance charges and fees hereby disputed will be determined after you provide the documentary evidence requested below. More specifically, I dispute the accuracy of the following amounts listed on the statement dated July 8, 2005:

1. the alleged current balance of \$5,407.82,
2. the alleged finance charges of \$57.52, and
3. the minimum payment allegedly due of \$108.00.

BILLING ERROR PURSUANT TO 15 U.S.C. 1666(b)(2)

Because your claim as to my indebtedness rests on the existence of the alleged account and cardholder agreement, if the account was not able to be opened properly because of your failure to give the disclosures, then the amount of the indebtedness is called into question. Therefore, I request the documentary evidence of indebtedness detailed below. The statement contains billing errors under 15 U.S.C. 1666(b)(2) in that the statements reflect inaccuracies through their individual items, the entire balance due, finance charges and all extensions of consumer credit for which you claim I am indebted to

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EXHIBIT B

you, and I request additional clarification regarding all such extensions of consumer credit, including all documentary evidence thereof you possess or are able to obtain, specifically including, but not limited to the following:

1. Copies of all records of my written and signed authorizations for any purchases from all vendors for which an extension of consumer credit is claimed to have been made.
2. For any claimed extension of consumer credit where there is not a written authorization signed by me, a copy of all records of evidence of any other authorization by me, such as use of my PIN, or other identifying information.
3. If you claim any extension of consumer credit where you have no proof of authorization by me, a statement by you of the factual and legal basis of your claim that I am indebted to you for such an extension of consumer credit, or payment to any third party.
4. Copies of documents showing that all disclosures required by law that were given to me prior to opening this account, at any renewing of the account, and otherwise; including documentary evidence that any such disclosure was made to me, by whom, when, how and where.
5. The original cardholder agreement to which you allege I first agreed to, as well as any amendments you allegedly made thereto.
6. An accounting of all interest, fees, or other charges assessed to my account since it was opened.
7. Clarification of the amount(s) that I will need to pay pending the resolution of this billing error dispute and when such amounts will need to be paid.
8. Any other documents you allege, suggest or will rely upon to prove in a court of law or other dispute resolution forum, that I am indebted to you in the amount alleged.

I expect a prompt written response to this billing error dispute and request for documentary evidence made under the FCBA. I wish to make it clear that the forwarding of nothing but copies of previous statements or form letters will not suffice to fulfill this clear request for both specific and general documentation. I sincerely hope that we can come to a quick and mutually beneficial agreement as to how to settle this bona fide dispute. However, should you ignore this matter, I will pursue relief through any and all means legally available to me. Thank you in advance for your anticipated cooperation.

Sincerely,



Mrs Evelyn L Hillis

P.S. Feel free to call me at home na if you have any questions on this account.

Feb. 13. 2007 11:10AM

No. 3529 P. 3

AMERICAN ARBITRATION ASSOCIATION
Commercial Arbitration Tribunal

In the Matter of the Arbitration between

Re: 55 148 E 00131 06
Evelyn L. Hillis (Claimant/Hillis)
and
Chase Bank USA, N.A. (Respondent/Chase)

AWARD OF THE ARBITRATOR

I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the arbitration agreement entered into between the above-named parties, and having been duly sworn, and having duly heard the proofs and allegations of the Respondent, and the Claimant having failed to appear after due notice by mail in accordance with the Supplementary Procedures for Consumer-Related Disputes, do hereby, AWARD, as follows:

FINDINGS OF FACT

1. Claimant, Evelyn L. Hillis ("Hillis") opened a credit card account with Respondent, Chase Bank USA, N.A. ("Chase") in August 2003 (the "Account").
2. With the opening of the Account, Chase provided Hillis with a Cardmember Agreement ("CMA") that set forth the terms and conditions of the Account. Among other terms, the CMA discloses the applicable finance charges, the methods used to calculate those charges, the applicable interest rates, and Hillis' payment obligations. The CMA states that use of the Account confirms Hillis' acceptance of the terms and conditions contained in the CMA.
3. Hillis first used the Account in October 2004 when she cashed a convenience check in the amount of \$3,000.00. In accordance with the CMA, Chase imposed the applicable finance charges and fees associated with that transaction, as Hillis' November 8, 2004, Account statement reflects.
4. Hillis used the Account only one other time, cashing another convenience check in the amount of \$2,850.00. In accordance with the CMA, Chase again imposed the applicable finance charges and fees associated with that transaction. These charges appeared on Hillis' December 8, 2004 statement.

5. In addition to the finance charges that appeared on Hillis' November 8, 2004 and December 8, 2004 statements, finance charges also appeared on each of her monthly statements from January 8, 2005 through June 8, 2005.

6. By letter dated March 29, 2005, Hillis communicated with Chase. In her letter, which Chase received on April 12, 2005, Hillis states that the letter is Chase's "official notice of a billing error dispute." Hillis references the FCBA in the letter, but does not allege any specific violation of that statute. She also does not identify any specific transaction or charge that she disputes.

7. On April 15, 2005, Chase responded to Hillis' March 29 letter, rejected its validity and reminded her of her obligations under the CMA.

8. On June 1, 2005, Chase received another letter from Hillis, identical to that received on April 12, 2005. Chase did not respond to this second letter.

9. On July 25, 2005, Hillis sent Chase a letter entitled "First Notice of Billing Errors." Chase received this letter on July 30, 2005. According to the letter, Hillis was disputing the Account balance reflected on her July 8, 2005 monthly statement. Hillis based her alleged dispute upon her "belief that [Chase] failed to give all the proper disclosures required by law . . . prior to opening [the Account], and additional disclosures since then." The letter further asserted that because Chase "failed to provide these disclosures, the [A]ccount could not legally be opened and I should not be responsible for the payment of interest, fees or other finance charges." The letter did not specify what disclosures have not been made, nor did it specify any transaction that Hillis was disputing.

10. Although Hillis acknowledged in her July 25 letter that she owed the principal amount due on the Account, she also stated that she was "disputing" the "individual items, the entire balance due, finance charges and all extensions of consumer credit for which you claim I am indebted to you." She then requested eight categories of documents, including copies of her signed credit card receipts and item accounting of all interest, fees, or other finance charges assessed to my account since it was opened."

11. Chase sent a response to Hillis on August 29, 2005, to her July 25, 2005 letter, again reminding her of her obligations pursuant to the CMA and rejecting her claim that she was not responsible for the balance due and owing on the Account.

12. Hillis sent a letter to Chase every month from August 2005 through February 2006. Each of these letters was identical to Hillis' July 25, 2005 letter, containing the same assertions and referring to that month's Account statement as containing unspecified billing errors.

Conclusions of Law

1. The Truth in Lending Act, 15 U.S.C. § 1601 *et seq.* ("TILA"), governs Hillis' claim. The purpose of TILA is to "assure meaningful disclosure of credit terms so that the consumer will be able to compare more readily the various credit terms available to him and avoid the uninformed use of credit, and to protect the consumer against inaccurate and unfair credit billing and credit card practices." 15 U.S.C. § 1601(a). Congress delegated to the Federal Reserve Board responsibility for developing regulations for implementing TILA. The Federal Reserve Board regulations are contained in 12 C.F.R., Part 226 (known as "Regulation Z").

2. The procedures for resolving credit billing disputes appear in Part D (Chapter 5) of TILA at 15 U.S.C. §§ 1666-1666j (and the implementing Regulation Z, at 12 C.F.R. § 226.13). This portion of TILA contains the FCBA. The FCBA defines what constitutes a "billing error" at 15 U.S.C. § 1666(b).

3. The FCBA and Regulation Z specify how such proper billing errors must be addressed. First, the creditor must receive written notice of a billing error within 60 days after a consumer has received the first credit card statement reflecting the billing error. Second, the creditor must send the consumer a written acknowledgement of the notice within 30 days. Third, the creditor must — within two complete billing cycles after receipt of the notice (but not later than 90 days) — either (1) make appropriate corrections to the account and send notification of those corrections to the consumer; or (2) send a written explanation or clarification to the consumer after having conducted an investigation, setting forth the reasons why the creditor believes the statement was correct. 15 U.S.C. § 1666(a); 12 C.F.R. § 226.13(b).

4. Regulation Z defines a billing error notice as a written notice from a consumer that:

- (1) Is received by a creditor ... no later than 60 days after the creditor transmitted the first periodic statement that reflects the alleged billing error;
- (2) Enables the creditor to identify the consumer's name and account number; and

- (3) To the extent possible, indicates the consumer's belief and the reasons for the belief that a billing error exists, and the type, date, and amount of the error.

12 C.F.R. § 226.13(b).

5. TILA is a consumer protection statute, but it is not to be used as an "instrument of harassment and oppression of the lending industry." *Greisz v. Household Bank*, 8 F. Supp. 2d 1031, 1036 (N.D. Ill. 1998), *aff'd*, 176 F.3d 1012 (7th Cir. 1999).

6. The creditor's obligations under the FCBA are triggered only if the consumer (1) identifies a billing error as defined by the FCBA; and (2) sends a written notice of that billing error to the creditor within 60 days of the first statement containing the purported error. 12 C.F.R. § 226.13(b)(1); *Dawkins v. Sears Roebuck & Co.*, 109 F.3d 241, 243 (5th Cir. 1997), *also at* 1997 U.S. App. LEXIS 12696, *4; *Pinner v. Schmidt*, 805 F.2d 1258, 1264 (5th Cir. 1986). Here, Hillis did neither.

7. Chase's obligations under the FCBA were never triggered because Hillis failed to identify any billing errors as defined by the FCBA. The letters upon which Hillis bases her claim, and the billing statements to which they relate, are void of any billing errors.

8. There is no legal support for Hillis' claim that a creditor's alleged failure to provide disclosures when an account is opened results in a billing error. Neither TILA, the FCBA nor Regulation Z provides support for a claim that a failure to make required disclosures results in a subsequent billing error as to any or all finance charges or fees.

9. Hillis' assertions in her letters that the Account could not be legally opened due to Chase's purported failure to provide her with pre-lending disclosures and that Chase cannot enforce the parts of the CMA relating to finance charges and other fees, are contrary to established case law. *See Adams v. Trust Co. Bank*, 426 S.E.2d 36, 38 (Ct. App. Ga. 1992) (Violations of the Truth in Lending Act or the Consumer Leasing Act "give rise to the remedies prescribed therein, and do not serve to invalidate the contract or prevent a lender or lessor from enforcing its rights under the contract."); *First Nat'l Bank v. Felt*, 368 N.W.2d 588, 591 (S.D. 1985) ("A failure to comply with [TILA] does not render the underlying obligation unenforceable."); *Wise Furniture v. Dehning*, 343 N.W.2d 26, 30 (Minn. 1984) ("It is important to note though that TILA violation does not affect the validity or enforceability of the

underlying contract.”); *Charter Finance Co. v. Henderson*, 326 N.E.2d 372, 329 (Ill. 1975); *Grandway Credit Corp. v. Brown*, 295 So.2d 714, 715 (Fla. App. 1974).

10. To the extent that Hillis’ letter may be construed as contending that the finance charge is itself a billing error, she is incorrect. This claim does not fit the three definitions of billing error cited in her letters, or any of the other definitions in Section 1666(b). A finance charge is “any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit.” 12 C.F.R. § 226.4.

11. Hillis refers to 15 U.S.C. §§ 1666(b)(1), (b)(2) and (b)(5) in her letters, but she fails to satisfy any of those definitions of “billing error.” Section 1666(b)(1) defines a billing error as “[a] reflection on a statement of an extension of credit which was not made to the obligor or, if made, was not in the amount reflected on such statement.” Section 1666(b)(2) defines a billing error as “[a] reflection on a statement of an extension of credit for which the obligor requests additional clarification including documentary evidence thereof.” Both types of billing errors arise out of an underlying “statement of an extension of credit” that the consumer disputes or questions. As set forth above, however, finance charges by definition are not “an extension of credit”, but rather are “incident to or a condition of” the extension of credit. Compare 15 U.S.C. § 1666(b)(2) with 12 C.F.R. § 226.4(a). Section 1666(b)(5) defines a billing error as “[a] computational error or similar error of an accounting nature of the creditor on a statement.” Hillis fails to identify any such error in her letters.

12. Hillis’ claim also fails because Hillis failed to notify Chase of the purported errors within 60 days from the first time the alleged errors were reflected on her billing statements. Regulation Z provides that the creditor must receive the billing error notice no later than 60 days after the creditor transmitted the first periodic statement that reflects the alleged billing error. 12 C.F.R. § 226.13(b)(1); *Dawkins v. Sears Roebuck & Co.*, 109 F.3d at 243, also at 1997 U.S. App. LEXIS 12696 at *4; *Pinner v. Schmidt*, 805 F.2d 1258, 1264 (50 Cir. 1986). If written notice is not received within this sixty day period, the billing error is not timely and the creditor is not required to take any action to respond under the FCBA or Regulation Z. *Dawkins*, 109 F.3d at 243, also at 1997 U.S. App. LEXIS 12696 at *4; *Greisz v. Household Bank*, 8 F. Supp.2d at 1042 (because Greisz did not send a proper written billing error notice

to Household within the requisite amount of time, her FCBA/TILA claim was dismissed on summary judgment), *aff'd*, 176 F.3d 1012, 1015 (7th Cir. 1999) (Plaintiff's FCBA claim and certain other TILA claims "were properly rejected on summary judgment and we have nothing to add to the District Judge's discussion of those claims"). Sending notice within sixty days of subsequent statements that might also reflect the purported billing error does not suffice or trigger any obligations either, because there is no "continuing billing error" concept embodied or permitted under the FCBA and Regulation Z. *Dawkins*, 109 F.3d at 243 n.1, *also at* 1997 U.S. App. LEXIS 12696 at *5 n.1.

13. Hillis was first assessed a finance charge on the Account on her November 8, 2004 statement. According to Hillis' argument that she should not have been charged finance charges due to Chase's supposed failure to make mandatory disclosures when the Account was opened two years earlier, the deadline for providing Chase with a written notice of billing error was 60 days from the date the November 8, 2004 statement was transmitted, because this was the first time finance charges are known to have appeared on the Account. She did not send her first letter until July 25, 2005, which was over six months past the 60-day deadline from the first, November 8, 2004 statement, to contain finance charges.

14. Under 15 U.S.C. § 1640(e), Hillis was required to commence this arbitration within one year of the date of the occurrence of the alleged violation. Under the applicable case law, the one-year statute could have begun at one of two different points in time. Under either, however, the statute of limitations expired before Hillis initiated this arbitration. If Hillis is claiming that she did not receive the required disclosures at the opening of the Account, then the statute of limitations would have begun running at the time she should have received the disclosures, which would have been when the Account was opened. *Goldman v. The First National Bank of Chicago*, 532 F.2d 10, 17 (7th Cir. 1976). If she is claiming that the disclosures were made but were inaccurate or not "proper," the statute would have begun running when the first finance charge was imposed. *Id.* at 21. Hillis' action is barred under either situation. The Account was opened in August 2003 and the first finance charge was assessed on the November 8, 2004 statement. At the latest, Hillis had to bring an action by November 8, 2005. Instead, she initiated this arbitration on March 12, 2006, more than four months after the expiration of the statute of limitations. Her claims are therefore time-barred.

ACCORDINGLY, I award as follows: all claims of Evelyn L. Hillis, Claimant, are denied; the Award is entered in favor of Respondent, Chase Bank U.S.A., N.A.

The administrative fees of the American Arbitration Association totaling \$1,250.00 shall be borne as incurred, and the compensation and expenses of the arbitrator totaling \$5,990.79 shall be borne as incurred.

This Award is in full settlement of all claims submitted to this Arbitration. All claims, not expressly granted herein, are hereby denied.

2/13/07
Date

David J. Armstrong
David J. Armstrong

I, David J. Armstrong, do hereby affirm upon my oath as Arbitrator that I am the individual described in and who executed this instrument which is my Award.

2/13/07
Date

David J. Armstrong
David J. Armstrong